

Agricultural Marketing Service, USDA

§ 52.23

(3) An inspector designated as the "inspector in charge," when the certificate represents composite inspection of several persons.

In all cases the inspection certificate shall be prepared in accordance with the facts set forth in the official memoranda made by the inspector or inspectors in connection with the inspection. Whenever a certificate is signed by a person under a power of attorney the certificate should so indicate. The signature of the holder of the power shall appear under the name of the inspector who personally inspected the product, and whenever a certificate issued is signed by an inspector in charge that title must appear in connection with the signature.

(b) A certificate of loading shall be issued and signed by the inspector or licensed sampler authorized to check the loading of a specific lot of processed products: *Provided*, That, another employee of the inspection service may sign such certificate of loading covering any processed product checkloaded by an inspector or licensed sampler when given power of attorney by such inspector or licensed sampler and authorized by the Administrator to affix the inspector's or licensed sampler's signature to a certificate of loading which has been prepared in accordance with the facts set forth in the notes made by the inspector or licensed sampler in connection with the checkloading of a specific lot of processed products.

[22 FR 3535, May 22, 1957, as amended at 35 FR 14061, Sept. 4, 1970. Redesignated at 42 FR 32514, June 27, 1977 and further redesignated at 46 FR 63203, Dec. 31, 1981]

§ 52.19 Issuance of corrected certificates.

A corrected inspection certificate may be issued by the inspector who issued the original certificate after distribution of a certificate if errors, such as incorrect dates, code marks, grade statements, lot or car numbers, container sizes, net or drained weights, quantities, or errors in any other pertinent information require the issuance of a corrected certificate. Whenever a corrected certificate is issued, such certificate shall supersede the inspection certificate which was issued in

error and the superseded certificate shall become null and void after the issuance of the corrected certificate.

§ 52.20 Issuance of an inspection report in lieu of an inspection certificate.

A letter report in lieu of an inspection certificate may be issued by an inspector when such action appears to be more suitable than an inspection certificate: *Provided*, That, the issuance of such report is approved by the Administrator.

§ 52.21 Disposition of inspection certificates.

The original of any inspection certificate, issued under the regulations in this part, and not to exceed four copies thereof, if requested prior to issuance, shall be delivered or mailed promptly to the applicant, or person designated by the applicant. All other copies shall be filed in such manner as the Administrator may designate. Additional copies of any such certificates may be supplied to any interested party as provided in § 52.49.

[22 FR 3535, May 22, 1957. Redesignated at 42 FR 32514, June 27, 1977, and further redesignated at 46 FR 63203, Dec. 31, 1981, as amended at 63 FR 50746, Sept. 23, 1998]

§ 52.22 Report of inspection results prior to issuance of formal report.

Upon request of any interested party, the results of an inspection may be telegraphed or telephoned to him, or to any other person designated by him, at his expense.

APPEAL INSPECTION

§ 52.23 When appeal inspection may be requested.

An application for an appeal inspection may be made by any interested party who is dissatisfied with the results of an inspection as stated in an inspection certificate, if the lot of processed products can be positively identified by the inspection service as the lot from which officially drawn samples were previously inspected. Such application shall be made within thirty (30) days following the day on which the previous inspection was performed, except upon approval by the

§ 52.24

7 CFR Ch. I (1–1–12 Edition)

Administrator the time within which an application for appeal inspection may be made may be extended.

§ 52.24 Where to file for an appeal inspection and information required.

(a) Application for an appeal inspection may be filed with:

(1) The supervisor in the office that issued the inspection certificate on which the appeal covering the processed product is requested; or

(2) The inspector in charge of the office of inspection at or nearest the place where the processed product is located.

(b) The application for appeal inspection shall state the location of the lot of processed products and the reasons for the appeal; and date and serial number of the certificate covering inspection of the processed product on which the appeal is requested, and such application may be accompanied by a copy of the previous inspection certificate and any other information that may facilitate inspection. Such application may be made orally (in person or by telephone), in writing, or by telegraph. If made orally, written confirmation shall be made promptly.

[22 FR 3535, May 22, 1957. Redesignated at 42 FR 32514, June 27, 1977 and further redesignated at 46 FR 63203, Dec. 31, 1981, and amended at 51 FR 20439, June 5, 1986]

§ 52.25 When an application for an appeal inspection may be withdrawn.

An application for appeal inspection may be withdrawn by the applicant at any time before the appeal inspection is performed: *Provided*, That, the applicant shall pay at the hourly rate prescribed in § 52.42, for the time incurred by the inspector in connection with such application, any travel expenses, telephone, telegraph, or other expenses which have been incurred by the inspection service in connection with such application.

[22 FR 3535, May 22, 1957, as amended at 38 FR 25166, Sept. 12, 1973. Redesignated at 42 FR 32514, June 27, 1977 and further redesignated at 46 FR 63203, Dec. 31, 1981]

§ 52.26 When appeal inspection may be refused.

An application for an appeal inspection may be refused if:

(a) The reasons for the appeal inspection are frivolous or not substantial;

(b) The quality or condition of the processed product has undergone a material change since the inspection covering the processed product on which the appeal inspection is requested;

(c) The lot in question is not, or cannot be made accessible for the selection of officially drawn samples;

(d) The lot relative to which appeal inspection is requested cannot be positively identified by the inspector as the lot from which officially drawn samples were previously inspected; or

(e) There is noncompliance with the regulations in this part. Such applicant shall be notified promptly of the reason for such refusal.

§ 52.27 Who shall perform appeal inspection.

An appeal inspection shall be performed by an inspector or inspectors (other than the one from whose inspection the appeal is requested) authorized for this purpose by the Administrator and, whenever practical, such appeal inspection shall be conducted jointly by two such inspectors: *Provided*, That, the inspector who made the inspection on which the appeal is requested may be authorized to draw the samples when another inspector or licensed sampler is not available in the area where the product is located.

§ 52.28 Appeal inspection certificate.

After an appeal inspection has been completed, the lot(s) cannot be further appealed unless authorized by the Administrator. An appeal inspection certificate shall be issued, showing the results of such appeal inspection; and such certificate shall supersede the inspection certificate previously issued for the processed product involved. Each appeal inspection certificate shall clearly identify the number and date of the inspection certificate which it supersedes. The superseded certificate shall become null and void upon the issuance of the appeal inspection certificate and shall no longer represent the quality or condition of the processed product described therein. The inspector or inspectors issuing an appeal inspection certificate shall forward notice of such issuance to such